



October 9, 2000

Chief Don Hatcher
City of Leander Police Department
P.O. Box 319
Leander, Texas 78646-0319

OR2000-3868

Dear Chief Hatcher:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 139965.

The Leander Police Department (the "department") received a series of requests from the same individual for information relating to three specified incident numbers. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Thus, section 552.101 encompasses information that is made confidential by another statute. You claim that the requested information is confidential under section 552.101 in conjunction with section 58.007 of the Family Code. Chapter 58 of the Family Code governs law enforcement records relating to juvenile offenders. Section 58.007 provides in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Confidentiality under section 58.007(c) extends only to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1999 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Furthermore, confidentiality under section 58.007(c) requires that the juvenile offender in question be 10 years of age or older and under 17 years of age. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code).

Upon careful review of the information you submitted, we find that the records relating to Incident Nos. 12010 and 15898 represent law enforcement records and files relating to juvenile conduct that occurred on or after September 1, 1997. None of the exceptions under section 58.007 appears to be applicable in this instance. We therefore conclude that the requested information relating to Incident Nos. 12010 and 15898 is confidential under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Accordingly, the city must withhold all of the information relating to those incident numbers from public disclosure.

You also claim that Incident Report No. 16808 is confidential under section 58.007(c) of the Family Code. You do not inform us, however, and the submitted information does not reveal whether Incident Report No. 16808 pertains to a juvenile offender. Accordingly, we are unable to determine whether that particular incident report is excepted from disclosure under section 552.101. However, if the related investigation did involve a child as defined by section 51.02 of the Family Code, and if none of the exceptions under section 58.007 of the Family Code is applicable, then Incident Report No. 16808 also is confidential under section 58.007(c) and must be withheld under section 552.101.

You also raise section 552.108 of the Government Code, the “law enforcement exception,” which provides in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). A governmental body that raises an exception to disclosure under section 552.108 must reasonably explain, if the requested information does not supply the explanation on its face, how and why the release of that information would interfere with law enforcement. *See* Gov't Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). You indicate that you are raising subsections (a)(1) and (b)(1) of section 552.108. You assert that the information relating to Incident No. 16808 contains "investigative information . . . combined with police investigative methods and if released, could hinder this pending investigation or future investigations." We note that Incident Report No. 16808 reflects that the case is "inactive." Nevertheless, based on your representation that an investigation is pending, we find that you have demonstrated that the release of Incident Report No. 16808 would interfere with the detection, investigation, or prosecution of crime. We therefore conclude that Incident Report No. 16808 is excepted from disclosure under section 552.108(a)(1). *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 at 3 (1978) (same).

Please note, however, that information normally found on the front page of an offense or arrest report is generally considered to be public. *See* Gov't Code § 552.108(c); *Houston Chronicle*, 531 S.W.2d at 186-87. Thus, you must release the type of information that is considered to be basic front page offense and arrest report information, including a detailed description of the offense, even if that information is not actually located on the front page of the offense or arrest report. Gov't Code § 552.108(c); *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

In summary, the records relating to Incident Nos. 12010 and 15898 are confidential and must be withheld from disclosure in their entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If Incident Report No. 16808 involves a juvenile offender under section 51.02 of the Family Code, and if none of the exceptions under section 58.007 is applicable, then that incident report also is confidential under section 58.007 and must be withheld in its entirety under section 552.101. In any event, Incident Report No. 16808 is excepted from disclosure under section 552.108(a)(1)

of the Government Code. If that incident report is withheld under section 552.108(a)(1), basic information must be released in accordance with section 552.108(c).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

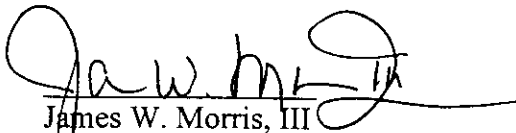
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ljp

Ref: ID# 139965

Encl. Submitted documents

cc: Ms. Shari Goodfellow
1802 Mockingbird Lane
Leander, Texas 78641-2205
(w/o enclosures)